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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/476,877

01/03/2000

LAWRENCE M. AUSUBEL

3788-7004

8423

7590

06/07/2005

STANLEY B. GREEN, ESQ.
CONNOLLY BOVE LODGE & HUTZ
P.O. BOX 19088
WASHINGTON, DC 20036

EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/476,877

Applicant(s)

AUSUBEL, LAWRENCE M.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 87-194 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 87-90, 92-100, 102-110, 112-110, 122-130, 132-140, 142-150, 152-160, 162-169, 171-176, 178-183, 185-190, and 192-194 is/are rejected.
- 7) ☒ Claim(s) 91, 101, 111, 121, 131, 141, 151, 161, 170, 177, 184 and 191 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

AB

DETAILED ACTION

1. The Examiner's response is incorporated in the rejection found below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 87-90, 92-100, 102-110, 112-120, 122-130, 132-140, 142-150, 152-160, and 162-169, 172-176, 178-183, 185-190 and 192-194 are rejected under 35 U.S.C. 103(a) as being unpatentable over Business Editors (hereinafter, ONSALE) in view of Fujisaki (US Patent No. 4,789,928).

As per claims 87-88, 97, 108, 117, 127-128, 137 and 147-148, 167, 171, 172, 174, 178, 179, 181, 185, 186, 188, 192 and 193, ONSALE discusses a computer implemented auction system comprising an auctioneer system coupling to at least two remote user systems. The user system is a general purpose computer comprising means for receiving messages from the auctioneer's system and for displaying messages; means for receiving bid related information from users; means for transmitting bid information to the auctioneer's system. See the entire document.

The auctioneer's system including means for generating and transmitting messages to user system, means for receiving bid information from user systems. See the entire document.

The claimed “means for transmitting bid information to the auctioneer’s system, said bid information including bids (S_i , P_j) each comprising a set identification S_i and a value parameter P_i , where the set identification S_i identifies a set of items that the user proposes to transact and where the value parameter P_j specifies a value proposed by the user for the set of items identified by S_i ” is being interpreted as a user transmitting a bid identifying the items and the prices a bidder is placing to the central system. This teaching is abundantly supplied in the ONSALE system. Applicant is directed to the reference. As per the claimed a decision means including a selecting means which selects bids to maximize a function of the value parameters P_i of the selected bids, in the ONSALE system, the system constantly monitors the highest bid and the name of the highest bidder. Note pages 2 and 3.

Fujisaki discloses an auction information transmission processing system. The system comprises a host terminal and a plurality of dealer terminals for submitting to the host terminal. Note the abstract and figure 1 of Fujisaki. Fujisaki further discloses a decision means responsive to the bid information received from the user systems for determining whether an auction should continue or terminate, the decision means including means to initiate the generation of a non-final message to at least one user system in response to a determination to continue an auction. Note column 7, lines 24-27, 53-51; column 10, lines 32-59; column 13, lines 21-27 of Fujisaki. Fujisaki also discloses means to initiate the generation of a final message to at least one user system in response to a determination to terminate an auction. Applicant is directed to column 5, lines 55-58; column 10, line 62 to column 11, line 9 and column 13, lines 27-31 of Fujisaki. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate these features as taught by Fujisaki into the system of ONSALE in order to provide

instant messages such as bid status and auction status to all bidders thereby providing a user friendly system.

Maximizing a function of the value parameters of selected bids would have been obvious to one of ordinary skill in the art to do in the combination of the ONSALE system and Fujisaki so as to relate to the highest bidding price to the related item being auctioned. As per applicant's argument that Fujisaki does not teach multiple instances of each of plural dissimilar items, applicant is directed to the ONSALE system denoting these the teachings of multiple instances of each of plural dissimilar items. It should be noted that if there are a plurality of different items where different bids are continuously placed thereon as in the combination of ONSALE and Fujisaki, the selection of the highest bids would be disjoint.

Applicant generally argues that the prior art failed to teach or suggest at least one of the bids including a set of identification Si identifying at least two different items or two different types of items as found in now amended claims 87, 97, 107, 117, 127, 137, 147, 157, newly added claims 167, 174, 180 and 188.

In response, the combined references does not explicitly state a set of identification Si identifying at least two different items or two different types of items. However, the Examiner asserts that the types of items whether they are the same or different are not a measure of patentable differences apart from the combined references as such does not bring any new or unobvious functions different from the combined references.

Furthermore, the type of items does not affect the functionality of

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the system of ONSALE and Fujaski as these are merely different types of data that cannot be accorded patentable differences. These are different intended types of items, things or objects" that would have been obvious to one of ordinary skill in the art as mostly any types or combination of different or the same types of items can be auctioned. Applicant is directed also to column 14, lines 43-46 of Fujisaki where it is indicated that the system can be applied to the auctioning of various articles.

As per claims 89, 98, 109, 118, 129, 138, 149, 169, 176, 183 and 190, the combination of the ONSALE system and Fujisaki does not explicitly state, the items comprise television licenses or associated derivative rights. The Examiner asserts that these kinds of data do not affect the functionality of the system of ONSALE as these are merely different types of data that cannot be accorded patentable differences. These are different intended types of "items", "things" or "objects" that would have been obvious to the skilled artisan when gleaning from the ONSALE system as mostly any items can be auctioned in the ONSALE system. Applicant is directed also to column 14, lines 43-46 of Fujisaki where it is indicated that the system "can be applied to the auctioning of various articles".

As per claims 90, 99, 110, 119, 130, 139 and 150, auctions are well known in the art to be conducted in multiple rounds. Doing the same in the ONSALE system and Fujisaki would have been obvious to one of ordinary skill in the art in order to simulate a live auction system.

As per claims 92-93, 102-103, 112-113, 122-123, 132-133, 142-143, 152-153 and 162-163, 173, 180, 187 and 194, limiting the number of bids that may be entered by a particular user based on previous bidding activity by the particular user would have been obvious to do in the combination of the ONSALE system and Fujisaki especially if a user is the highest bidder. Thus, the highest bidder would not need to place any other higher bids during a particular round.

As per claims 94-96, 104-106, 114-116, 124-126, 134-136, 144-146, 154-156 and 164-166, limiting bids to identifying particular sets of the plurality of items would have been left to the auctioneer of the ONSALE and Fujisaki system and such would have also been based on the starting bidding price of the particular sets of the plurality of items. Setting a minimum or a maximum value for the item would have also been left to the auctioneer of the ONSALE and Fujisaki so as to assure that the item is auctioned at a particular price.

As per claims 100, 120, 140 and 160, once the auction is terminated, an indication of a winner will be made, and it would have been obvious to one of ordinary skill in the art at the time of the invention to note that the sets S_i identified by the selected bids in the final round of the auction indicate the items that will be assigned to the respective users after the auction.

Allowable Subject Matter

3. Claims 91, 101, 111, 121, 131, 141, 151, 161, 170, 177, 184 and 191 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art taken alone or in combination failed to teach or suggest a decision means or function which compares the sum of the parameters P_i from the selected bids to a function of the sum of the parameters P_i from the selected bids of an earlier round.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Frantzy Poinvil
Primary Examiner
Art Unit 3628**